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6 Rocky Mountain Chocolate Factory, Inc.

7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11 SDMS, IND., THOMAS P. ANDERSON,  
and KEN PECUS,

12 Plaintiff,

13 v.

14 ROCKY MOUNTAIN CHOCOLATE  
15 FACTORY, INC.,

16 Defendant.

Case No. 08CV833 (JM) (AJB)

DECLARATION OF LEONARD MACPHEE  
IN SUPPORT OF DEFENDANT'S EX PARTE  
APPLICATION FOR ORDER EXTENDING  
TIME TO PLEAD

17  
18 I, Leonard H. MacPhee, hereby declare as follows:

19 1. I am an attorney in good standing in the State of Colorado, and hold the title of  
20 Partner in the Denver office of the law firm of Perkins Coie LLP.

21 2. Perkins Coie LLP is counsel for Defendant, Rocky Mountain Chocolate Factory,  
22 Inc., and has recently been retained to represent it in the above-captioned action.

23 3. I have conferred with Plaintiffs' counsel regarding the requested extension of time  
24 to respond to the First Amended Complaint, and counsel for Plaintiffs has consented to an  
25 extension of time up to and including June 24, 2008.

26 4. According to Plaintiffs' counsel, the summons was served on RMCF's registered  
27 agent on May 21, 2008. RMCF's response to the First Amended Complaint is therefore currently  
28 due on June 10, 2008.

